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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,543	07/10/2003	H. Alexander Munroe II	5607-003	2813

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/616,543	Applicant(s) MUNROE, H. ALEXANDER	
	Examiner William P. Watkins III	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1772

DETAILED ACTION

1. The rejection over Montgomery, Sr. in view of Fitzgerald given in section 1 of the detailed portion of the office action mailed 28 December 2004 is withdrawn in view of applicant's amendments and arguments in the paper filed 27 April 2005.

2. Applicant's amendment to the specification regarding priority has been entered. As noted by applicant the claim for priority was made in the application papers and noted by the PTO on the filing receipt.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Sr. (U.S. 6,718,714 B1) in view of Betz (U.S. 5,587,218).

Art Unit: 1772

Montgomery, Sr. teaches warning tactile floor tile with bevels and screw holes for easy installation on a rigid support surface with a pattern of domes and raised strips that meets ADA standards or aide in guidance (abstract, Figure 3, Figure 16, col. 1, lines 50-60, col. 2, lines 25-40). Betz teaches the use of a sheet which may be made of a flexible material such as rubber that has grooves to allow changes in indicia and dome structure in order to meet ADA tactile standards, that is secured to a rigid backing (col. 2, lines 40-60, abstract, Figure 4, col. 3, lines 15-30, col. 6, lines 5-30, col. 1, lines 45-55). The instant invention claims the use of a floor mat that can be rolled with tactile projections, screw holes and beveled edges. It would have been obvious to one of ordinary skill in the art to have made the tiles of Montgomery, Sr. out of a flexible sheet material with grooves in order to allow variation in indicia and dome configuration because of the teachings of Betz. The examiner takes the flexible sheet material of Betz as being capable of being transported in roll form. Betz teaches rubber and other materials for use in flexible sheet structures (col. 1, lines 45-55). Variation in the size of the flexible sheet of the combination is taken as being within the ordinary skill of the art.

Art Unit: 1772

5. Claims 6 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Sr. in view of Betz as applied to claims 1, 3-5 and 7-16 above, and further in view of Koski (U.S. 5,010,122).

Koski et al. teach using recycled tire cord and rubber as a material to mold floor mats (abstract, col. 3, lines 30-40, col. 5, lines 40-50). The instant invention claims a flexible warning mat made of recycled tire cord. It would have been obvious to one of ordinary skill in the art to have made used recycled tire material in the mat of Montgomery, Sr. in view of Betz in order to have the cost and environmental advantages of recycled material because of the teachings of Koski et al.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1772

7. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindholm (U.S. 6,014,779) or Brewer (U.S. 1,577,608).

See Figure 4 of Lindholm and Figure 4 of Brewer. The examiner takes the mats of Lindholm and Brewer as being tactile surfaces that can be transported in roll form.

8. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindholm (U.S. 6,014,779) or Brewer (U.S. 1,577,608).

The references teach flexible rubber mats with tactile dome structures. The instant invention claims specific sizes of mat. It would have been obvious to one of ordinary skill the art to have varied the size of the mats of the references to fit any sized tub.

9. Applicant's arguments with respect to claims 1 and 3-19 have been considered but are moot in view of the new ground(s) of rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally

Art Unit: 1772

be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
August 7, 2005



WILLIAM P. WATKINS III
PRIMARY EXAMINER